

(g) We may ask you to keep or send other information necessary to implement this subpart.

Subpart E—In-Use Testing

§ 1045.401 What testing requirements apply to my engines that have gone into service?

(a) We may perform in-use testing of any engines subject to the standards of this part. If you produce outboard or personal watercraft engines that are subject to the requirements of this part, you must test them as described in this subpart. The testing requirements described in this subpart do not apply to sterndrive/inboard engines. This generally involves testing engines in the field or removing them for measurement in a laboratory.

(b) We may approve an alternate plan for showing that in-use engines comply with the requirements of this part if one of the following is true:

(1) You produce 200 or fewer engines per year in the selected engine family.

(2) You identify a unique aspect of your engine applications that keeps you from doing the required in-use testing.

(c) We may void your certificate of conformity for an engine family if you do not meet your obligations under this part.

(d) Independent of your responsibility to test in-use engines, we may choose at any time to do our own testing of your in-use engines.

(e) If in-use testing shows that engines fail to meet emission standards or other requirements of this part, we may pursue a recall or other remedy as allowed by the Clean Air Act (see § 1045.415).

§ 1045.405 How does this program work?

(a) You must test in-use engines for exhaust emissions from the families we select. We may select up to 25 percent of your engine families in any model year—or one engine family if you have three or fewer families. When we select an engine family for testing, we may specify that you preferentially test engines based on the type of vessel. In addition, we may identify specific modes of operation or sampling times. You

may choose to test additional engine families that we do not select.

(b) The provisions of this paragraph (b) describe how test families are selected, depending on when we receive the application for certification.

(1) If we receive the application by December 31 of a given calendar year for the following model year (for example, by December 31, 2009 for model year 2010), we would expect to select engine families for testing by February 28 of the model year. If we have not completed the selection of engine families by February 28, you may select your own engine families for in-use testing. In this case, you must make your selections and notify us which engine families you have selected by March 31. You should consider the following factors in selecting engine families, in priority order:

(i) Select an engine family that has not recently been tested in an in-use testing regimen (and passed) under the provisions of this subpart. This should generally involve engine families that have not been selected in the previous two model years. If design changes have required new testing for certification, we would consider that this engine family has not been selected for in-use testing.

(ii) Select an engine family if we have approved an alternative approach to establishing a deterioration factor under § 1045.245(b)(8).

(iii) Select the engine family with the highest projected U.S.-directed production volume.

(2) If we receive an application for a given model year after December 31 of the previous calendar year, you must conduct in-use testing with that engine family without regard to the limitations specified in paragraph (a) of this section, unless we waive this requirement. We will generally waive testing under this paragraph (b)(2) only for small-volume engine manufacturers or in the case where similar testing was recently completed for a related engine family.

(c) Send us an in-use testing plan for engine families selected for testing as described in this paragraph (c). Complete the testing within 36 months after we direct you to test a particular engine family. Send us a complete in-